

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

BRUCE A. KING,

Petitioner(s),

vs.

WARDEN ROSS CORRECTIONAL
INSTITUTION,

Respondent(s).

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Case Number: 1:07cv428

District Judge Susan J. Dlott

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Timothy S. Hogan. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on March 26, 2008 a Report and Recommendation (Doc. 10). Subsequently, the petitioner filed objections to such Report and Recommendation (Doc. 14).

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendations should be adopted.

Accordingly, Respondent's Motion to Dismiss (Doc. 6) is **GRANTED** and the Petition is **DISMISSED** with prejudice on the ground that it is barred from review under the one-year statute of limitations set forth in 28 U.S.C. § 2244(d).

A certificate of appealability will not issue with respect to the petition, which this Court has concluded is barred by the statute of limitations, because under the applicable two-part

standard enunciated in *Slack v. McDaniel*, 529 U. S. 473, 484-85 (2000), “jurists of reason” would not find it debatable whether the Court is correct in its procedural ruling.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of any Order adopting this Report and Recommendation will not be taken in “good faith” and, therefore, **DENIES** petitioner leave to proceed on appeal *in forma pauperis* upon a showing of financial necessity. *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997).

IT IS SO ORDERED.

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s/Susan J. Dlott
Susan J. Dlott
United States District Judge